

Notice of Allowability

Application No.

10/066,519

Examiner

Anu Ramana

Applicant(s)

WALTERS ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the interview conducted on 11/18/05.
2. ☒ The allowed claim(s) is/are 37,39-43 and 45-50.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


EDUARDO C. ROBERT
PRIMARY EXAMINER

EXAMINER'S AMENDMENT AND STATEMENT OF REASONS FOR ALLOWANCE

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with the Attorney of Record, Michael L. Taylor, on November 18, 2005.

The application has been amended as follows:

In the claims:

Cancel claims 1-36 and 44.

In claim 37, after line 11 and before line 12, insert - - inserting a retaining member in the formed second tunnel; - -

In claim 37, line 12, after "tunnel" and before "; and" insert - - with the retaining member - -.

In claim 41, line 1, delete "the further steps of" and insert - - further - - before "comprising".

In claim 41, line 3, delete "a" and before "member" insert - - the retaining - -.

In claim 43, line 1, delete "the step of" and before "retaining" insert - - the retaining member is a tool bit and - -.

Insert the following new claims:

- - 47. The method of claim 37, further comprising:
positioning a pin in the second tunnel transverse to the first tunnel. - -

- - 48. The method of claim 47, wherein positioning the pin includes:

connecting the pin to the retaining member; and
pulling the pin into the second tunnel with the retaining member.

- - 49. The method of claim 47, further comprising:
affixing a soft tissue replacement to a first end of said flexible strand; and
pulling said soft tissue over the pin in said first tunnel and back out said
first tunnel. - -
- - 50. The method of claim 49, further comprising:
affixing the soft tissue to the bone member. - -

The following is an examiner's statement of reasons for allowance.

None of the prior art either alone or in combination teaches, discloses or suggests a method of surgically attaching a soft tissue replacement to at least a bone member including the steps of: inserting an insertion rod having a guide portion into a first tunnel of the bone member, wherein a flexible strand is pre-loaded on said guide portion; operably interconnecting the insertion rod with an external guide member defining a guide section; aligning a tunnel forming device through the guide section of the external guide member with said guide portion of the insertion rod; forming a second tunnel transverse and through the first tunnel and said insertion rod with said tunnel forming device; inserting a retaining member in the formed second tunnel; retaining said flexible strand within said first tunnel with the retaining member; and removing said insertion rod from said first tunnel.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anu Ramana whose telephone number is (571) 272-


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4718. The examiner can normally be reached Monday through Friday between 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached at (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AR *Annabelle Lamana*
November 18, 2005


EDUARDO ROBERT
PRIMARY EXAMINER